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10/560,770	06/07/2006	Itaru Tanimura	352738.00800	5158

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EXAMINER

UBER, NATHAN C

ART UNIT	PAPER NUMBER
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4143

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,770	Applicant(s) TANIMURA ET AL.	
	Examiner NATHAN C. UBER	Art Unit 4143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-52 is/are rejected.
- 7) ☒ Claim(s) 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>13 December 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the filing of necessary documents to complete the national stage entry application, those documents filed on 7 June 2006.
2. Claims 1-30 have been canceled by applicant's preliminary amendment dated 20 December 2007.
3. Claims 31-52 are currently pending and have been examined.

Information Disclosure Statement

4. The Information Disclosure Statement filed on 13 December 2005 has been considered. An initialed copy of the Form 1449 is enclosed herewith. The foreign applications submitted by Applicant were not considered because they are not in English, do not contain English language abstracts and were not submitted with accompanying concise explanations of the relevance of the non-English information submitted. See MPEP 609.04(a)(III).

Claim Objections

5. Claim 31 is objected to because of the following informalities: The claim contains a typo in the last paragraph; it reads *...over said network, in the naïve of said company...* For the purposes of this examination Examiner assumed that Applicant intended *naïve* to read "name". Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 41-52 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claims 41, 51 and 52 are indefinite because they are directed to at least a method and an apparatus. See MPEP 2173.05(p)(II).
9. Claims 42-50 recite the limitation *the marketing assisting method of Claim 41* in the preamble. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
11. Claims 41, 51 and 52 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 41:

- Claim 41 recites multiple statutory categories within a single claim. Claim 41 is directed both an *apparatus* and a *data processing method*. The statute requires the invention be one of the enumerated statutory classes of invention; an invention may not overlap statutory classes because the classes are set forth in the alternative only. (See MPEP 2173.05(p)(II)). Therefore Applicant's invention is not directed to a statutory class of invention as required by the statute because it is directed to two, or overlaps two statutory classes of invention.

Claim 51:

- Claim 51 recites multiple statutory categories within a single claim. Claim 51 is directed an *apparatus a recording medium* and a *method for data processing*. The statute requires the invention be one of the enumerated

statutory classes of invention; an invention may not overlap statutory classes because the classes are set forth in the alternative only. (See MPEP 2173.05(p)(II)). Therefore Applicant's invention is not directed to a statutory class of invention as required by the statute because it is directed to multiple, or overlaps multiple statutory classes of invention. Further Claim 51 is directed to a recording medium; however the claims do not disclose any structure to support this claim. Examiner suggests editing the preamble to claim "a computer-executable program tangibly embodied on a computer readable medium."

Claim 52:

- Claim 52 recites multiple statutory categories within a single claim. Claim 52 is directed an *apparatus* a *program* and a *method for data processing*. The statute requires the invention be one of the enumerated statutory classes of invention; an invention may not overlap statutory classes because the classes are set forth in the alternative only. (See MPEP 2173.05(p)(II)). Therefore Applicant's invention is not directed to a statutory class of invention as required by the statute because it is directed to multiple, or overlaps multiple statutory classes of invention. Further the *program* of claim 52 is not a proper statutory class of invention under 35 U.S.C. 101 and is *per se* not statutory. Replacing *program* with "a computer-executable program tangibly embodied on a computer readable medium" is a suggestion for how to bring this claim into compliance with 35 U.S.C. 101 because "a computer-executable program tangibly embodied on a computer readable medium" is statutory subject matter.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
14. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.
15. Claims 31-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 2003/0078833 A1) in view of **Official Notice**.

Claims 31, 41 and 51-52:

Suzuki, as show, discloses the following limitations:

- *a plurality of customer databases each adapted for storage therein of a customer table to which private data of a customer has been entered (see at*

least ¶0061, client database and ¶0083, "...storing them in the client table of the client database..."),

- *a selection registration section for accepting registration from said customer terminal device of identification data of the salesperson approved by said customer and for generating/holding the selection registration table correlating the salesperson table of the salesperson identified by said identification data with said customer table (see at least ¶0061, the selective registration unit accepts MRIDs from user terminals of clients/customers and associated the selected MR with the user and generates a registration table top record the association),*
- *a message database for holding a message sent from said salesperson to said customer and a message sent from said customer to said salesperson (see at least ¶0065, message database, accessible by both the sales person and the client),*
- *retrieving means for retrieving the customer table correlated with said salesperson table by said selection registration table (see at least ¶0062, the MR-side message interface),*
- *a salesperson side message interface for assisting in formulation of a message to said customer by said salesperson terminal device, with generation of said selection registration table as an incentive; said salesperson side message interface also reading out the message formulated by said customer h m said message database and sending the message thus read out to said salesperson terminal device (see at least ¶0062, the MR-side message interface),*
- *a customer side message interface for reading out the message prepared by said salesperson from said message database to send the message thus read out to said customer terminal device, and for assisting in formulation of*

the message by said customer terminal device (see at least ¶0063, client-side message interface),

- at least one of the salesperson tables of the company database of said service provider is correlated with the totality of customer tables correlated with the salesperson tables of the totality of said company databases, inclusive of said company database of said system provider, by said selection registration table (see at least Figure 3),*
- at least one of the salesperson tables of each of the company databases excepting said company database of said system provider is a salesperson table belonging to a manager of each company; the salesperson table of said company manager is correlated with the totality of the customer tables correlated by said selection registration table (see at least ¶0121, a manager managing a plurality of MRs),*
- said customer side message interface reading out a message concerning a specified one of the companies of said company databases excepting said company database of said system provider from said message database and transmitting the message read out over said network to the totality of customer tables correlated with said salesperson table of said service provider or to customer terminal devices of customer tables extracted by said retrieving means subject to preset retrieving conditions (see at least Figure 6),*
- said customer side message interface on receipt of an acknowledge message from each of said customer terminal devices allowing said selection registration section to generate the selection registration table correlating the salesperson table of said company manager of said specified company with the customers of the sources of transmission of said acknowledge messages (see at least Figure 6, Item 33 “management”),*

- *said salesperson side message interface assisting in formulating messages to customers of said customer tables extracted under said preset retrieving conditions by said retrieving means from the totality of customer tables correlated with the salesperson tables of the company managers of said companies, and allowing the messages formulated to be stored in said message database (see at least Figure 14),*
- *said customer side message interface transmitting the messages formulated to said customer terminal devices, over said network, in the naïve(name) of said company managers or in the name of salespersons of said salesperson tables which are different than those belonging to said company managers and which are correlated with said customer tables (see at least Figure 9),*
- *said salesperson side message interface transmitting the messages formulated to salesperson terminal devices which are different than those belonging to said company managers and which are correlated with said customer tables (see at least Figure 14),*

With respect to the following limitation, Suzuki, as shown, discloses the following limitations except Suzuki does not disclose a company table. However, Suzuki does disclose identifying the company to which and MR belongs and sorting data by company, see at least ¶0056 and Figure 3.

- *a plurality of company databases each adapted for storage therein of a company table of a company, supervising a plurality of salespersons belonging to said company, a plurality of salesperson tables, each provided for each salesperson belonging to said company, and a selection registration table for correlating said customer tables and the salesperson tables to each other (see at least ¶0061, “MR database contains an MR table and a selective registration table”),*

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Suzuki does not disclose the following limitation; however the proprietorship of a given database does not affect the scope of the invention.

- *at least one of said company databases is owned by a service provider*

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to alter the invention of Suzuki to add tables to track companies since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 32 and 42:

Suzuki, as shown, discloses the following limitation:

- *the message transmitted to said customer in the name of the company manager or in the names of salespersons of said salesperson tables which are different than those belonging to said company managers includes a return message to the message from said customer (see at least Figure 8, Item 62).*

Claims 33 and 43

Suzuki, as shown, discloses the following limitation:

- *said salesperson side message interface makes display so that the messages transmitted/received by said salespersons, directly in charge of said customers, of said salesperson tables different than those belonging to said company managers, may be distinguished by said salesperson terminal devices from the messages transmitted received by said company managers (see at least Figure 16).*

Claims 34 and 44:

Suzuki, as shown, discloses the following limitation:

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- *said salesperson side message interface allows the salesperson terminal device belonging to said company manager of each company to browse the transmission/receipt hysteresis of messages with said customers of the totality of salespersons of the company databases excepting said company database of said system provider (see at least Figure 17, Item 17).*

Claims 35 and 45:

Suzuki, as shown, discloses the following limitation:

- *said salesperson side message interface provides the salesperson terminal devices with customer-based use data over the network (see at least ¶0115).*

Claims 36 and 46:

Suzuki, as shown, discloses the following limitation:

- *said company databases excepting said company database of said system provider group together a plurality of customer tables out of the totality of customer tables correlated with the salesperson tables of the company managers (see at least ¶Figures 17 and 18).*

Claims 37 and 47:

Suzuki, as shown, discloses the following limitation:

- *having unread message extracting means for extracting unread messages in the name of each company manager or in the name of the salespersons of said salesperson tables which are different than those belonging to said company managers (see at least Figure 17, Item 184),*
- *responding customer extracting means of extracting the customers whose messages to the company managers or to salespersons of the salesperson tables different than those belonging to said company managers have been received within a present time (see at least Figure 16),*

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- *customer name extracting means for extracting customers of interest based on all or part of customer names entered as the retrieving conditions (see at least Figure 12),*
- *said retrieving means extracting preset customers by said narrowing-down means and/or said customer name extracting means (see at least Figure 19).*

Claims 38 and 48:

Suzuki does not disclose the following limitation:

- *said salesperson side message interface performs the processing of refraining from transmitting all messages in case it is unable to transmit the messages to all of said customers simultaneously*

However, Examiner takes **Official Notice** that it is old and well known in the art for a messaging system not to send messages that have transmission errors and to report to the sender which messages had transmission errors and were not sent. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the old and well known message transmission feature of detecting and recording transmission errors with invention of Suzuki since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 39 and 49:

Suzuki, as shown, discloses the following limitation:

- *said customer side message interface displays on said customer terminal device the salespersons of the salesperson tables correlated with the totality of customer tables of the company databases other than the database of said service provider, provided that the salespersons displayed are not approved by said customer (see at least Figure 10).*

Claim 40:

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Suzuki, as shown, discloses the following limitation:

- *each time a new customer table is added to said salesperson tables different than those belonging to said company managers, said new customer table is added to said totality of customer tables correlated with the salesperson tables of said company managers (see at least Figure 3, Item 318 is the customer table).*

Claim 50:

- *said company databases, excepting said company database of said system provider, adding, each time a new customer table is added to said salesperson tables different than those belonging to said company managers, said new customer table to the totality of customer tables correlated with said at least one salesperson table (see at least Figure 3, Item 318 is the customer table).*

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Conclusion

16. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nathan C Uber** whose telephone number is **571.270.3923**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James A Reagan** can be reached at **571.270.6710**.
17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).
18. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to **571-273-8300**.

19. Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

/Nathan C Uber/ Examiner, Art Unit 4143

29 April 2008

/James A. Reagan/

Supervisory Patent Examiner, Art Unit 4143